

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

ENCOMPASS INSURANCE COMPANY OF
MASSACHUSETTS,

Civil Action No. 1:05-cv-11693-RCL

Plaintiff,

vs.

JOSEPH D. GIAMPA, FREDERICK T.
GIAMPA, ADVANCED SPINE CENTERS,
INC., d/b/a FIRST SPINE REHAB, FUTURE
MANAGEMENT CORPORATION, FUTURE
MANAGEMENT BUSINESS TRUST,
EDWARD KENNEDY, BRIAN J.
CULLINEY, D.C. and JENNIFER
McCONNELL, D.C.

Defendants.

PLAINTIFF'S DISCOVERY REPORT

NOW COMES the plaintiff, Encompass Insurance Company of Massachusetts (hereinafter “Encompass”), pursuant to this Court’s Order dated May 8, 2007 (Docket # 130), and hereby submits the within report detailing the status of all discovery motions currently pending before this Honorable Court.

I. Motion to Compel Deposition of Lisette Sierra (Docket #s 109-111)

- On April 6, 2007, plaintiff filed a Motion to Compel the Deposition of Lisette Sierra whereas Ms. Sierra is likely to possess information relevant to the claims alleged in plaintiff’s Complaint.
- On April 24, 2007, plaintiff filed with this Court a Certificate of Service evidencing proper service of plaintiff’s Motion to Compel upon Ms. Sierra.
- No opposition has been served by Ms. Sierra within the time period proscribed by Local Rules 7.1(B)(2) and 37.1(C).

- Moreover, neither Ms. Sierra nor any of the above-captioned defendants have sought a protective order to prevent plaintiff's access to this properly discoverable witness.
- As such, plaintiff respectfully requests that this Court order the deposition of Ms. Sierra to commence within ten (10) days of this Court's Order.

II. Motion to Compel Production of Documents (Docket #s 112-114)

- On April 6, 2007, plaintiff filed a Motion to Compel the production of documents and information from defendant, Edward Kennedy.
- Although Kennedy has provided plaintiff with pleading responses, he has produced no documents responsive to plaintiff's requests.
- No opposition to this motion has been filed by Kennedy within the time period proscribed by Local Rules 7.1(B)(2) and 37.1(C).
- Moreover, Kennedy has not sought a protective order to prevent the production of the documents and information requested by plaintiff.
- As such, plaintiff respectfully requests that this Honorable Court enter an Order compelling defendant, Edward Kennedy, to provide complete discovery responses within ten (10) days of this Court's Order.

III. Motion to Compel Testimony of Tracy Kennedy (Docket #s 117-119)

- On April 11, 2007, plaintiff filed a Motion to Compel the deposition testimony of Tracy Kennedy, a former FMC employee and former wife of defendant, Edward Kennedy.
- Ms. Kennedy's counsel, Attorney Lawrence Desilets, has been served with plaintiff's Motion to Compel regarding Tracy Kennedy.
- Pursuant to Local Rules 7.1 and 37.1, an opposition to plaintiff's motion was to be filed no later than April 25, 2007.

- To date, neither Ms. Kennedy nor any of the above-captioned defendants have sought a protective order to prevent the further testimony of Ms. Kennedy.
- Whereas Tracy Kennedy possesses non-privileged, relevant information regarding the allegations set forth in plaintiff's Complaint, Encompass respectfully requests that this Honorable Court enter an Order compelling the further testimony of Tracy Kennedy within twenty (20) days of this Court's Order.

IV. Motion to Compel Production of Documents (Docket #s 126-127)

- On April 25, 2007, plaintiff filed a Motion to Compel Production of Documents regarding defendants, Joseph D. Giampa, Advanced Spine Centers d/b/a First Spine and Rehab, Future Management Corporation, Jennifer McConnell and Brian Culliney.
- Between April 20, 2007 and May 7, 2007, counsel for the above-named defendants served pleadings responses to plaintiff's First Requests for Production of Documents.
- In addition, defendants, Joseph D. Giampa, Advanced Spine Centers d/b/a First Spine and Rehab and Future Management Corporation, produced approximately seven (7) banker's boxes containing FMC payroll and corporate transaction records.
- Plaintiff's counsel is currently working to review the documents produced by defendants to determine whether the documents are responsive to each of plaintiff's discovery requests.
- The plaintiff requests a ruling on this Motion whereas defendants' responses, on balance, are wholly deficient.
- The plaintiff further reserves the right to supplement the instant motion upon completion of its review of defendants' document responses.

Respectfully submitted,
Encompass Insurance Company,
By its attorneys,

/s/ Richard D. King, Jr.

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Dated: May 22, 2007

Certificate of Service

I, Richard D. King, Jr., hereby certify that on this 22nd day of May, 2007, this document was filed through the CM/ECF and will be sent electronically to the registered participants as identified on the Notice of Electronic Filing.

____/s/ Richard D. King, Jr._____